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JUL 17 2002

In re Application of :
Perricone :
Application No. 10/085,864 :
Filed: February 27, 2002 :
Attorney Docket No. NP-22 (acne) :

OFFICE OF PETITIONS
DECISION GRANTING
PETITION

This is a decision on the petition filed April 8, 2002, to establish that page 10 of the specification was part of the originally filed application.

On February 27, 2002, the application was filed.

On March 21, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of February 27, 2002, and advising applicants that page 10 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 10 was deposited on February 27, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "specification (28) pgs" on February 27, 2002.¹ Petitioner has also submitted a copy of the missing documentation- page 10 of the specification.

Upon review of the record, page 10, deposited on February 27, 2002, has not been located. However, the evidence is convincing that the application papers deposited on February 27, 2002, included page 10, and that page 10 was subsequently misplaced in the PTO.

In view of the above, the petition is granted. The copy of page 10 submitted with the petition will be used for examination purposes.

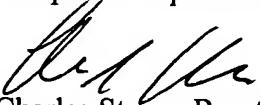
The petition fee will be credited to petitioner's deposit account.

The Notice mailed March 21, 2002 was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 27, 2002, using the application papers filed on February 27, 2002, and the copy of page 10 of the specification filed on April 8, 2002.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/085,864 2 Serial/Patent # 10/085,864

3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
Filing			\$
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Extension of Time			\$
Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/> Petition	4	4-8-02	\$ 130
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11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Brantley

TITLE: Petitions Atty

SIGNATURE: Steven Brantley

PHONE: 306-5683

OFFICE: Petitions

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APPROVED: Alicia Kelley

DATE:

7/17/02

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